IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3909 OF 2005

Mohd.Tahir Abdul Hakim Ansari. ... Applicant.

Versus.

State of Maharashtra. ... Respondent.

Ms.Anjali Patil Contractor for the Applicant.

Shri K.V.Saste, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 27th June, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. Offence registered against the Applicant is under sections 376 and 342 of the Indian Penal Code.

2. The learned Counsel for the Applicant submitted that the offence has allegedly taken place on 9th January 2005 in the night and the complaint is lodged on 12th January 2005. The learned Counsel submitted that even assuming that the allegations against the Applicant are true even considering the complaint filed by the prosecutrix, it is a case of consent by the prosecutrix. She submitted that the Applicant was arrested on 12th January 2004. She submitted that the Applicant is aged 25 years old young man and looking to the allegations made by the prosecutrix he deserves to be enlarged on bail.

3. The leaned A.P.P. pointed out that as per the record of the school, the date of birth of the prosecutrix is 18th March 1991. He submitted that considering this fact the Applicant is not entitled for bail. At this stage, the learned Counsel for the Applicant states that the Applicant is ready even today to marry the prosecutrix.

4. From the prima-facie material on record, it appears that the date of birth of the Prosecutrix is 18th March 1991. Thus on the date of incident she was hardly 14 years old. In view of this position, the last submission made by the learned Counsel for the Applicant cannot be considered.

5. The alleged delay in filing the F.I.R. has been explained by the prosecutrix herself. Considering the position in which the minor prosecutrix was placed at that stage, it cannot be said that the said delay is fatal. Taking an overall view of the matter, this is not a case where a view different from the one taken by the learned Addl.Sessions Judge can be taken.

6. The next date fixed before the learned Addl.Sessions Judge is 5th July 2005. Considering the young age of the Applicant, the case deserves to be heard expeditiously.

7. Hence the Application is rejected. However, considering the young age of the Applicant and considering the fact that the Applicant is in custody from January 2005. The learned Addl.Sessions Judge will give preference to the trial by treating the same as High Court expedited case.

8. Parties to act on an authenticated copy of this order.

Judge.